



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,947	12/21/2000	Marc S. Lemchen	P946	2376
23386 7590 07/19/2007 MYERS DAWES ANDRAS & SHERMAN, LLP 19900 MACARTHUR BLVD., SUITE 1150 IRVINE, CA 92612			EXAMINER DOAN, DUYEN MY	
			ART UNIT 2152	PAPER NUMBER
			MAIL DATE 07/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

mn



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/746,947
Filing Date: December 21, 2000
Appellant(s): LEMCHEN, MARC S.

MAILED
JUL 19 2007
Technology Center 2100

Daniel I. Dawes
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/18/2007 appealing from the Office action mailed 9/8/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 9/21/2006 has not been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0055418

Pyles et al

8/13/1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1,10-13,22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Pyles et al (us 20020055418) (hereinafter Pyles).

As regarding claim 1, Pyles discloses a program controlled computer coupled to the computer network for executing a program to generate a modifiable schedule of stress reduction exercises personalized to the user and which stress reduction exercises are to be performed by the user interactively through use of the computer (see Pyles page.1 par 0008-0010, user interacts with the computer, inputting the user

exercise information to the computer), the computer receiving biofeedback input from the user (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035; user interacts with the computer, inputting the user exercise information to the computer), the program controlled computer monitoring compliance by the user with the schedule of stress reduction exercises (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035), the schedule being modifiable according to the compliance of the user with the schedule (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035), according to the performance of the user in the stress reduction exercises, according to situational events to which the user is subjected, according to biofeedback from the user during performance of the stress reduction exercises or at times other than during the performance of the stress reduction exercises (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035, biofeedback from the sensor that sense the fitness condition of the user and send the information to the computer), according to information input into the computer by the user relating to personalized stress characteristics of the user and/or according to information input into the computer by the user relating to personalized stress related history of the user (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035, and at least one sensor to sense body stress signals from the user to provide the automatic biofeedback input to the computer, the body stress signals being communicated to the computer(see Pyles page.1 par 0008-0010; page.2, par 0012-

0014; page.3, par 0028-0029,0033-0035,sensor that sense the user exercise condition and communicates the exercise condition to the computer).

As regarding claim 10, Pyles discloses the remote server that hosting the program (see Pyles page.3, par 0028-0029,0033-0035).

As regarding claim 11, Pyles discloses the program is downloaded by the user from the remote server via the computer network and is run on the computer (see Pyles page.3, par 0028-0029,0033-0035).

As regarding claim 12, Pyles discloses the program is run directly from the remote server via the network (see Pyles page.3, par 0028-0029,0033-0035).

As regarding claim 13, Pyles discloses automatically inputting personal stress factors relating to a user from sensors through a user's client computer coupled to the computer network (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035,sensor that sense the user exercise condition and communicates the exercise condition to the computer); receiving body stress signals from the user through the user's client computer (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035); and generating a modifiable schedule of stress reducing exercises personalized to the user and to be performed interactively by the user by use of the computer based of the personal stress factors relating to the user (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035, adjust resistance or other exercise parameter); monitoring compliance by the user with the schedule of stress reduction exercises on the user's client computer; and modifying the schedule according to the compliance of

the user with the schedule, according to the performance of the user in the stress reduction exercises according to situational events to which the user is subjected, according to biofeedback from the user during performance of the stress reduction exercises or at times other than during the performance of the stress reduction exercises (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035), according to information input into the computer by the user relating to personalized stress characteristics of the user, and/or according to information input into the computer by the user relating to personalized stress related history of the user (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035).

As regarding claims 22-24, the limitations are similar to limitations of claims 10-12, therefore rejected for the same rationale as claims 10-12.

As regarding claim 25, Pyles discloses a program controlled computer coupled to the computer for executing a program to generate a dynamically modified schedule of stress reduction exercises personalized to the user and which stress reduction exercises are to be performed by the user interactively through use of the computer (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035), the computer receiving biofeedback input from the user, the program controlled computer monitoring compliance by the user with the schedule of stress reduction exercises, the schedule being modified according to the compliance of the user with the schedule, user's stress status, and/or user performance (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035), and at least one

sensor to sense body stress signals from the user to provide the automatic biofeedback input to the computer, the body stress signals being communicated to the computer (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035).

As regarding claim 26, Pyles discloses automatically inputting personal stress factors relating to a user from sensors through a user's client computer coupled to the computer network (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035); receiving body stress signals from the user through the user's client computer (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035); generating a modifiable schedule of stress reducing exercises personalized to the user and to be performed interactively by the user by use of the computer based on the personal stress factors relating to the user; monitoring compliance by the user with the schedule of stress reduction exercises on the user's client computer (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035); and modifying the schedule according to the compliance of the user with the schedule, user's stress status and/or user performance (see Pyles page.1 par 0008-0010; page.2, par 0012-0014; page.3, par 0028-0029,0033-0035).

(10) Response to Argument

In response to appellant's argument that the prior art does not disclose "stress reduction exercise". As known, the proper exercise will inherently reduce stress, over

exercise will result in stress, and under exercise will not improve stress. Pyles discloses interactive fitness equipment having a display, a computer, a sensor to sense the heart rate from the user, the sensor then send the signal to the computer for manipulation such as set new goals or provide health information for the user (see Pyles pg.1, par 0010; pg.3, par 28-29). Thus, Pyles inherently discloses a stress reduction exercise.

In response to appellant's argument that the prior art does not teach "inputting personal stress factor relating to the user" examiner give the claim the broadest reasonable interpretation for "stress factor" is the "health information" related to the user, thus the above limitation can be reasonably interpreted as follow "inputting the health information relating the user". Pyles discloses a database having health history information, user can upload a wide variety of information to the computer (see pg.1, par 0010). The health information (i.e. stress) must be inputted by the user, otherwise how would the health information stored in the database in the first place?

In response to appellant's argument that the prior art does not discloses "receiving body stress signal from the user". On page 8, line 11-20 of the applicant's specification describes that the body stress signal can be inputted using sensor, the sensor include pressure monitor, heart monitor, etc. Pyles discloses sensing the heart-rate signal from the user using a sensor, the sensor then send the sensed signal to the computer. Thus, Pyles discloses receiving signal from the user.

In response to appellant's argument that the prior art does not disclose "generating a modifiable schedule of stress reduction exercise... e.g mediation or relaxation". Again, the claim must be given a broadest, reasonable interpretation and the limitation in the specification is not read into the claim. A schedule is timetable (American Heritage College Dictionary, 4th edition) Pyles discloses computer generate control signal to increase/decrease resistance and workout times (see pg.1, par 0010). The workout times is equate to the schedule, proper workout or exercising is inherently reducing stress. Pyles, therefore discloses a schedule of stress reduction exercise. The schedule is not necessary is mediation or relaxation as Applicant's alleged. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to appellant's argument that the prior art does not disclose "interactively by user by user of a computer" the plain meaning of interactive is the two way communication. Pyles discloses an interactive exercise equipment having a display, a computer, a sensor to sense the heart rate from the user, the sensor then send the signal to the computer for manipulation such as set new goals or provide health information for the user (see Pyles title, pg.1, par 0010; pg.3, par 28-29). The sensor sense the signal from the user and communicate the signal to the computer, the computer track progress, set new goals or provide health information for the user (see Pyles pg.1, par 0010), obviously there are two way communication between the user and the computer, therefore Pyles discloses interactively by user by user of a computer.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

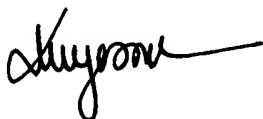
Art Unit: 2152

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Examiner

Duyen Doan

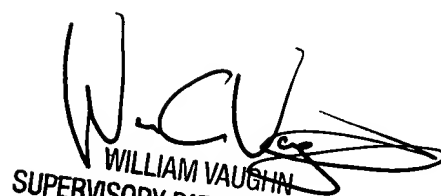


Conferees:



BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER

7/12/7



WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100